

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.3726 of 2000

Dated: 27-06-2007

Between:

M/s. Krishna Marines, Kakinada,
East Godavari District,
rep. by its Managing Partner K. Krishnam Raju.

... Petitioner

and

1. The Government of Andhra Pradesh,
rep. by its Secretary,
Revenue (Assn-I) Department,
Secretariat,
Hyderabad and 11 others.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to declare the proceedings of fourth respondent in Ref.B/283/96, dated 25-10-1996 as illegal and arbitrary and consequently direct respondents to set aside the order of first respondent in Government Memo No.66384/Assn-I(2)/96-B, dated 02-02-2000 and drop all further proceedings against petitioner forthwith.

2. Facts, in brief, are: Petitioner is a partnership firm constituted under the Indian Partnership Act. It has acquired an extent of Acs.35-27 cents in S.Nos.294/1 to 4, 295/1 to 4, 296/1 to 4 and 297/1 and 2 at Chollangi village Tallarevu Mandal of East Godavari District, under registered sale deeds by paying valuable consideration. Petitioner has commenced shrimp farming operations and exports by spending nearly Rs.100 lakhs.

While so, fourth respondent – Mandal Revenue Officer issued a notice in Form-I through his Ref.B/283/96, dated 28-09-1996 under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Rules, 1977

to petitioner to show cause within 15 days as to why it should not be evicted from the lands in question. Aggrieved by the said notice, petitioner filed revision before the Government and the Government granted stay vide its Memo No.66384/Assn-I(2)/96-1, dated 23-10-1996. As the copy of the said Memo was not reached in time, fourth respondent passed orders on 25-10-1996 in exercise of his powers under Section 4(1) of Act 9 of 1977. Again petitioner filed another representation to the Government seeking suspension of the orders of fourth respondent and first respondent – Government suspended the operation of the orders of fourth respondent, vide Govt. Memo dated 20-12-1996. Pursuant to that order, petitioner has been in possession and enjoyment of the lands in question without any interference from anybody. Be that as it may, petitioner to its utter surprise and dismay received a copy of the Government Memo bearing No.66384/Assn-I(2)/96-8, dated 02-02-2000, whereunder revision filed by petitioner, against the proceedings of fourth respondent, was dismissed without giving any opportunity. No opportunity was

given to it by first respondent before passing the orders, dated 02-02-2000 dismissing its revision, which is contrary to the rules in vogue. As fourth respondent is trying to take possession of the lands in question pursuant to his earlier order dated 25-10-1006, petitioner approached this Court and filed the present writ petition.

3. Heard learned counsel for the parties.

4. Having perused the order passed by first respondent dated 02-02-2000, this Court is of the view that the said order is definitely not only violative of principles of natural justice but also contrary to sub-section (2) of Section 4-B of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act'). Having granted interim orders dated 23-10-1996 and 20-12-1996, first respondent – Government instead of passing final orders ought to have given an opportunity to petitioner to explain as to how the said order passed by fourth respondent – Mandal Revenue Officer is not justified. When this case is looked at in those angles, it is clear that first respondent had not given any opportunity to petitioner before passing the impugned order, confirming the orders passed by the Mandal Revenue Officer.

In fact, sub-section (2) of Section 4-B of the Act states that no order adversely affecting any person shall be passed under sub-section (1), unless such person has been given an opportunity of making his representation. Of course, this provision deals with the opportunity to be given to the affected party. But as petitioner has filed revision before passing any orders, definitely, the Government is under obligation to issue notice before passing any orders. As the same is not done in the case on hand, the said order passed by the Government is liable to be dismissed. Accordingly, the order dated 02-02-2000 passed by first

respondent is hereby set aside and the matter is remanded to the Government for fresh determination.

5. Accordingly, the writ petition is allowed and the order dated 02-02-2000 passed by first respondent is set aside and the matter is remanded to the Government and the Government is directed to give opportunity to petitioner to establish its case. No costs.

As it is an old matter, the said exercise shall be completed as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

JUSTICE GOPALAKRISHNA TAMADA

Dt.27-06-2007
GLV